IN THE HIGH COURT OF JUDICATURE AT BOMBAY

T & I. J.

NOTICE OF MOTION NO.3 OF 2005
IN
SUIT NO.55 OF 2005
IN
PETITION NO.741 OF 2004

Bharati Jitendra Parekh & Anr. .. Petitioners/ Plaintiffs

Vs.

Damodardas Bhaidas Bhuta & Ors. .. Caveators/ Defendants

Mr.K.J.Hakani for the petitioners

Mr.N.A.Shah with Mr.D.R.Shah for the caveators

CORAM : S.U.KAMDAR, J

DATED : 12TH AUGUST, 2005

P.C.:

1. By consent of the parties, the following order is passed:

2. Mr.Shah, the learned counsel for the defendants states that as far as item no.1, 2 and 3 of schedule no.I are concerned, they are not lying with them. However, he states that there is a fixed deposit receipt of HDFC Bank for sum of

Rs.2.0 Lacs. He undertakes to renew the same from time to time till further orders. The interest accrued thereon also will be redeposited at the time of renewal of the said deposit. In so far as item no.6 is concerned, Mr.Shah the learned counsel for the defendants states that the deceased did not have any 1/4th share in the said immovable property situated at Bhandup, Mumbai. However, petitioners are at liberty to ascertain and find out and if there is any such share of the deceased he will be at liberty to take out fresh application as and when necessary.

3. In so far as item no.4 and 5 are concerned, the learned counsel for the defendants states that defendants shall not alienate, encumber or create any third party rights in respect of the aforesaid two properties. He also undertakes to this court that apart from the aforesaid, he will also not transfer any tenancy and furnish the list of tenants to the petitioners within one week from today. However, the defendants will be entitled to institute any legal proceedings against the tenants if occasion so arises. But if the decree is passed

then the same will not be execute without leave of this court. The defendants also undertakes that he will open separate savings account within 15 days from today and furnish details thereof to the petitioners. Defendants will be entitled to recover all rent and income from the estate of the deceased and shall deposit the same only in the said savings account. Defendants will be entitled to disburse the expenses from the said account towards the statutory charges such as electricity bill, water bill etc. and maintain the accounts. He will furnish the yearly account to the petitioners within 30 days from the end of financial year which will commence from 31.3.06. For any other expenses, liberty is granted to the respondents to make an application. Amount lying in Sangli Bank according to the defendants is sum of Rs.96,000/- will be made by depositing additional Rs.4000/- and the same will be invested

= with fixed deposit of HDFC Bank. The same shall

abide by the same order as in respect of sum of Rs.2.0 lacs. Mr.Shah further states that save and except the said properties, no other property

belongs to the deceased. Motion disposed of accordingly. No order as to costs.